

Message Text

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PAGE 01 GENEVA 04110 031844Z

73

ACTION L-03

INFO OCT-01 IO-13 ADP-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

RSC-01 COA-02 EB-11 OIC-04 CIAE-00 DODE-00 PM-07 H-03

INR-10 NSAE-00 NSC-10 PA-03 PRS-01 SS-15 USIA-15

ACDA-19 AEC-11 AGR-20 CG-00 COME-00 DOTE-00 FMC-04

INT-08 JUSE-00 NSF-04 OMB-01 TRSE-00 RSR-01 /239 W

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TO SECSTATE WASHDC 958

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E.O. 11652: N/A

TAGS: PBOR, UN

SUBJ: LOS SEABED MEETING: SUBCOMMITTEE II,

WORKING GROUP AUGUST 1

1. SUMMARY: SCII WG COMMENCED DETAILED CONSIDERATION OF FIRST ITEM ON TERRITORIAL SEA ON BASIS OF PROPOSED LANGUAGE CONTAINED IN CONSOLIDATED TEXT PREPARED BY SECRETARIAT.

2. CHAIRMAN REVIEWED PRIOR DAY'S DISCUSSION AND INDICATED WORKING GROUP MIGHT BEGIN WITH FIRST ITEM IN CONSOLIDATED TEXT PREPARED BY SECRETARIAT. THIS ITEM CONTAINED ALL WORDINGS ON TERRITORIAL SEA SO FAR PROPOSED BY VARIOUS DELS. TURKISH REP IMMEDIATELY PICKED UP CHAIRMAN'S SUGGESTION AND ASKED COSPONSORS TO EXPLAIN DISTINCTION BETWEEN "SOVEREIGNTY" AND "JURISDICTION" OF COASTAL STATE OVER TERRITORIAL SEAS.

3. MALTESE REP RESPONDED THAT SOVEREIGNTY CONVEYED IDEA OF TOTAL CONTROL. DUE TO PRESENT PACE OF
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PAGE 02 GENEVA 04110 031844Z

ACTIVITIES IN WORLD, COASTAL STATE RIGHTS SHOULD BE

SUBJECT TO CERTAIN INTERNATIONAL OBLIGATIONS, AND JURISDICTION WAS MORE APPROPRIATE TERM TO CONVEY THIS NOTION. REP WENT ON TO SAY THAT MALTA'S APPROACH WAS SOMEWHAT DIFFERENT FROM OTHERS AND THAT CHAIRMAN SHOULD CONSIDER MEANS OF REFLECTING HIS DEL'S VIEWS ON ITEMS WITHOUT NECESSITY OF MALTA INTERVENING EACH TIME.

4. INDONESIAN REP SUGGESTED THAT TERRITORIAL SEA BEGIN NOT ONLY BEYOND LAND TERRITORY AND INTERNAL WATERS BUT ALSO BEYOND ARCHIPELAGIC WATERS. LEBANON COMMENTED THAT SOVEREIGNTY MEANT TERRITORIAL COMPETENCE AND SHOULD STAY IN TEXT ON TERRITORIAL SEAS. MEXICAN REP STATED THAT SANTO DOMINGO ARTICLES EXPRESSED COASTAL STATE SOVEREIGNTY BEING "EXERCISED" AS DISTINGUISHED FROM SOVEREIGNTY BEING "EXTENDED". REP INDICATED EMPHASIS SHOULD BE LAID ON ACTIVE NOT PASSIVE TENSE. SOVIETS OBJECTED TO MEXICAN PROPOSAL AND SUGGESTED THAT MEXICAN POSITION BE REFLECTED IN SEPARATE TEXT.

5. ITALY, SPAIN AND URUGUAY SUPPORTED INCLUSION OF WORD SOVEREIGNTY TO DESCRIBE COASTAL STATE RIGHTS. UK ALSO AGREED WITH RETENTION OF TERM SOVEREIGNTY AND POINTED OUT THAT JURISDICTION WAS MERELY PART OF SOVEREIGNTY. UK REP ALSO FAVORED INCLUSION OF PHRASE "SOVEREIGNTY SUBJECT TO THE PROVISIONS OF THESE ARTICLES AND OTHER RULES OF INTERNATIONAL LAW." DISCUSSION THEN ENSUED OVER QUESTION OF WHETHER COASTAL STATE EXERCISED "THIS" OR "ITS" SOVEREIGNTY. (BOTH PRONOUNS WILL BE REFLECTED AS ALTERNATIVES).

6. IT ALSO EMERGED THAT PERU AND ECUADOR WANTED TERMS "SOVEREIGNTY AND JURISDICTION" IN TEXT BUT VENEZUELA, MEXICO AND UK DISAGREED WITH NEED TO INCLUDE "AND JURISDICTION."

7. US REP (STEVENSEN) AGREED WITH USE OF PHRASE "SOVEREIGNTY OF COASTAL STATE" AND FELT IT WAS NOT NECESSARY TO REFER TO JURISDICTION. US HAD PREFERENCE FOR WORD "EXTENDS" INSTEAD OF "EXERCISES" BECAUSE COASTAL STATE HAD SAME SORT OF SOVEREIGNTY IN TERRITORIAL SEA AS ON LAND SUBJECT

UNCLASSIFIED

PAGE 03 GENEVA 04110 031844Z

TO RIGHT OF INNOCENT PASSAGE.

MOREOVER, ARTICLE WAS INTENDED TO BE MORE OF A GRANT OF AUTHORITY THAN AN EXERCISE OF A RIGHT. USREP SUPPORTED UK FORMULATION ON DESIRABILITY OF INCLUDING "SUBJECT TO THE PROVISIONS OF THESE ARTICLES AND OTHER RULES OF INTERNATIONAL LAW." HE ALSO EXPRESSED HOPE THAT CHAIRMAN AND SECRETARIAT WOULD DEVELOP ALTERNATIVE

TEXT BASED ON DISCUSSIONS.

8. AUSTRALIAN REP REFERRED TO SEVERAL OF ABOVE TECHNICAL DRAFTING POINTS AND STATED THAT WHILE AUSTRALIA HAD SOME SYMPATHY WITH CONCEPT OF ARCHIPELAGIC WATERS, THERE APPEARED TO BE NO NEED TO REFER TO SUCH WATERS IN TERRITORIAL SEA TEXT. REP OF IRAQ STATED THAT HE SAW NO PRACTICAL DIFFERENCE BETWEEN WHETHER DRAFT INCLUDED PRONOUNS "ITS" OR "THIS". INDONESIAN REP STRESSED THAT TERRITORIAL SEA WAS NOT LIMITED TO CONTINENTAL COUNTRIES AND THAT BASELINES FOR ARCHIPELAGOS SHOULD ALSO BE BASELINES FOR MEASUREMENT OF TERRITORIAL SEA. BULGARIAN REP SUGGESTED THAT INDONESIAN FORMULATION BE CONSIDERED AS ONE ALTERNATIVE. CAMEROON AND USSR STATED THAT WG SHOULD CONCENTRATE ON SUBSTANCE AND NOT DRAFTING MATTERS, SUCH AS TENSE OF VERBS. SOVIETS ALSO SAID IT WAS UNNECESSARY TO SAY THAT SOVEREIGNTY WAS SUBJECT TO LIMITATIONS MENTIONED.

9. FIJI SUPPORTED INDONESIAN SUGGESTIONS RE MEASURING TERRITORIAL SEA FROM ARCHIPELAGIC BASELINES AND, IN ACCORDANCE WITH BULGARIAN COMMENT, SUGGESTED THIS FORMULATION AS ONE ALTERNATIVE. PERU AND URUGUAY ALSO FELT THAT SOVEREIGNTY SHOULD NOT BE SUBJECT TO LIMITATIONS. HOWEVER, PERU FELT THAT IF SOME FORMULATION WAS TO BE INCLUDED IT SHOULD SAY "OTHER SOURCES OF INTERNATIONAL LAW" TO INCLUDE DOMESTIC AND REGIONAL SOURCES.

10. IRAQI REP THEN READ TWO PARAGRAPHS WITH BRACKETED TEXT WHERE DIFFERENCES EXISTED WHICH HE FELT ACCURATELY REFLECTED MORNING'S DISCUSSION ON FIRST ITEM ON TERRITORIAL SEA. BULGARIAN REP STATED THAT ANOTHER

UNCLASSIFIED

PAGE 04 GENEVA 04110 031844Z

WAY TO PRESENT DIFFERENCES WAS BY FORMULATING ALTERNATIVE TEXTS WITHOUT BRACKETS. THIS WOULD PRESENT ALTERNATIVES MUCH MORE CLEARLY. PERU AND VENEZUELA SUPPORTED BULGARIAN PROCEDURAL SUGGESTION.

11. CHAIRMAN ASKED WG TO REFLECT ON PROCEDURAL PROPOSALS AND IN MEANTIME CHAIRMAN WOULD CONTACT DELEGATIONS WHICH HAD SUBMITTED ALTERNATIVES. NEITHER SC NOR WG HAD SET UP DRAFTING COMMITTEE AND MEMBERS COULD REFLECT ON POSSIBLE MEANS FOR COMING UP WITH CONCRETE PROPOSALS REFLECTING ALL POINTS OF VIEW.

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